

Subpart 916.4—Incentive Contracts

916.404-2 Cost-plus-award-fee contracts.

(d) *Fee Determination Plans.* Award fee arrangements limited to technical performance considerations are prohibited because they may increase cost disproportionately to any benefits gained. Instead, the award fee arrangement shall include both technical performance (including scheduling as appropriate) and business management considerations tailored to the needs of the particular situation. In addition, in a situation where cost estimating reliability and other factors are such that the negotiation of a separate predetermined incentive sharing arrangement applicable to cost performance is determined both feasible and advantageous, cost incentives may be added. The resulting contract would then be identified as a cost-plus-incentive-fee/award-fee combination type. The goals and evaluation criteria should be results-oriented. The award fee should be concentrated on the end product of the contract, that is, output, be it hardware, research and development, demonstration or services, together with business management considerations. However, input criteria such as equal employment opportunity, small business programs, functional management areas, such as safety, security, etc., should not be disregarded and may be appropriate criteria upon which to base some part of the award fee. Specific goals or objectives shall be established in relation to each performance evaluation criterion against which contractor performance is measured.

[49 FR 11955, Mar. 28, 1984, as amended at 59 FR 9105, Feb. 25, 1994]

PART 917—SPECIAL CONTRACTING METHODS

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AUTHORITY: 42 U.S.C. 7254; 40 U.S.C. 486(c).

SOURCE: 49 FR 11974, Mar. 28, 1984, unless otherwise noted.

Subpart 917.6—Management and Operating Contracts

917.600 Scope of subpart.

This subpart implements FAR Subpart 17.6, Management and Operating Contracts. DOE implementing procedures and requirements to be followed in the selection, award, and administration of Management and Operating Contracts are at part 970. The requirements of this subpart apply to any Department of Energy management and operating contract, including performance-based management contracts as defined in 48 CFR (DEAR) 917.601. References in this subpart to “management and operating contracts” shall be understood to include “performance-based management contracts.”

[49 FR 11974, Mar. 28, 1984, as amended at 62 FR 34861, June 27, 1997]

917.601 Definitions.

Performance-based contracting means structuring all aspects of an acquisition around the purpose of the work to be performed as opposed to the manner by which the work is to be performed

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or broad or imprecise statements of work.

Performance-based management contract means a management and operating contract that employs, to the maximum extent practicable, performance-based contracting concepts and methodologies through the application of results-oriented statements of work; clear objective performance standards and measurement tools; and incentives to encourage superior contractor performance.

[62 FR 34861, June 27, 1997]

917.602 Policy.

(a) It is the policy of the Department of Energy to provide for full and open competition in the award of management and operating contracts, including performance-based management contracts.

(b) A management and operating contract may be awarded or extended at the completion of its term without providing for full and open competition only when such award or extension is justified under one of the statutory authorities identified in FAR 6.302 and only when authorized by the Head of the Agency. Documentation and processing requirements for justifications for the use of other than full and open competition shall be accomplished in accordance with internal agency procedures.

[61 FR 32586, June 24, 1996]

917.604 Identifying management and operating contracts.

(a) Single purpose contracts for the operation of process development units, pilot plants, and demonstration plants where the purpose is to demonstrate the viability of processes toward the goal of commercialization are not considered to be included, unless designated operating contracts in accordance with FAR 17.602.

917.605 Award, renewal, and extension.

Conditional Authorization of Non-competitive Extension Made Pursuant to Authority Under CICA. Authorization to extend by the Head of the Agency shall be considered conditional upon the suc-

cessful negotiation of the contract to be extended in accordance with the Department's negotiation objectives. The Head of the Contracting Activity shall advise the Procurement Executive no later than 6 months after receipt of the conditional authorization as to whether the Department's objectives will be met and, if not, the contracting activity's plans for competing the requirement.

[61 FR 32586, June 24, 1996]

Subpart 917.70—Cost Participation

SOURCE: 61 FR 41706, Aug. 9, 1996, unless otherwise noted.

917.7000 Scope of subpart.

(a) This subpart sets forth the DOE policy on cost participation by organizations performing research, development, and/or demonstration projects under DOE prime contracts. This subpart does not cover efforts and projects performed for DOE by other Federal agencies.

(b) Cost participation is a generic term denoting any situation where the Government does not fully reimburse the performer for all allowable costs necessary to accomplish the project or effort under the contract. The term encompasses cost sharing, cost matching, cost limitation (direct or indirect), participation in kind, and similar concepts.

917.7001 Policy.

(a) When DOE supports performer research, development, and/or demonstration efforts, where the principal purpose is ultimate commercialization and utilization of the technologies by the private sector, and when there are reasonable expectations that the performer will receive present or future economic benefits beyond the instant contract as a result of performance of the effort, it is DOE policy to obtain cost participation. Full funding may be provided for early phases of development programs when the technological problems are still great.